

**Alaska Department of Environmental Conservation  
and  
Environmental Protection Agency  
State Fiscal Year 2005  
July 1, 2004 - June 30, 2005**

This agreement continues the State of Alaska's relationship with the United States Environmental Protection Agency (EPA) to foster excellence in state and federal environmental programs under the National Environmental Performance Partnership System. The Alaska Department of Environmental Conservation (DEC) enters into the agreement for the State of Alaska with EPA Region 10 for state fiscal year 2005 (July 1, 2004 to June 30, 2005).

This Agreement is a reflection of the relationship DEC and EPA Region 10 have been moving toward over the past years to protect and restore Alaska's environment. In this Agreement we have identified clear environmental priorities and desired results.

Both DEC and EPA Region 10 will exert their best efforts in the performance of this Agreement. Disputes regarding the performance of either party to this Agreement will be resolved at the lowest level possible within our organizations. If this is not feasible or successful, the next level for dispute resolution will be the managers responsible for the program area in question. The final level of appeal will be the DEC Commissioner and the Regional Administrator for EPA Region 10.

DATE: May 7, 2004

\_\_\_\_\_/s/\_\_\_\_\_  
Ernesta Ballard, Commissioner  
Alaska Department of Environmental Conservation

\_\_\_\_\_/s/\_\_\_\_\_  
John Iani, Regional Administrator  
US Environmental Protection Agency, Region 10

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## **Introduction and Purpose**

The National Environmental Performance Partnership System is a framework designed to achieve better environmental results by focusing the capacities and resources of the Environmental Protection Agency (EPA) and States to jointly address the most pressing environmental problems. Common goals, priorities and strategies are based on information about environmental conditions, and progress is evaluated based on results actually achieved in the environment.

The EPA Strategic plan provides an overarching document of national goals, priorities and performance measures. EPA Regional Strategic Plans describe region specific priorities, strategies and performance measures. Performance Partnership Agreements capture common priorities, strategies and expectations between EPA and individual states. Performance Partnership Agreements with states, Regional Strategic Plans and the National Strategic Plan collectively provide a comprehensive and consistent foundation for the National Environmental Performance Partnership System.

This State Fiscal Year (SFY) 2005 Performance Partnership Agreement (PPA) describes the overlapping missions of the Alaska Department of Environmental Conservation (DEC) and the EPA for protecting the quality of Alaska's environment. The agreement captures how each agency will work together to establish joint priorities and performance expectations to address Alaska's most important environmental issues. This Agreement complements and advances the priorities, strategies, results and performance measures in EPA Region 10's 2004 Strategic Plan.

The purpose of the agreement is to:

- Establish mutual priorities and performance expectations for both agencies during SFY 2005.
- Establish a joint workplan for guiding federal Performance Partnership Grant (PPG) funds for DEC's air quality program, and water quality program.

The agreement includes specific commitments made by each agency regarding Alaska's most important environmental priorities. The agreement also includes workplan activities in DEC's water and air and pesticide programs for PPG funding during the period July 1, 2004 to June 30, 2005.

## **II. Missions**

DEC and EPA Region 10 both share a common mission to protect Alaska's environment consistent with State and Federal law.

DEC Mission:

Protect human health and the environment.

EPA Region 10 Mission:

Protect and restore the environment of the Pacific Northwest and Alaska for present and future generations.

## **III. Agreement Coverage**

This agreement is based on the National Environmental Performance Partnership System which allows states flexibility to address their highest environmental priorities and establish resource allocations based on those priorities. This Agreement includes joint DEC and EPA Region 10 environmental priorities that have been identified as areas of partnership for the two agencies. The guiding principles and concepts of this agreement apply to all DEC and EPA interactions even though this Agreement does not cover all DEC programs receiving EPA grant assistance.

This Agreement includes the workplan commitments required for water quality program federal grants, pesticides, and air quality program grants in Alaska (attached). Grants covered in this Agreement are listed under the specific program workplans in Sections VII, and VIII. This Agreement constitutes the DEC and EPA workplan for the award of grants under a single Performance Partnership Grant (PPG) for each of these programs. The purpose of the PPG is to reduce the administrative burden by consolidating several grants into one for each of these programs and to increase the flexibility of DEC to move resources within the air, pesticide and water quality programs to meet Alaska's highest environmental needs.

## **IV. DEC/EPA Priorities**

### Improved State and EPA Performance Partnership

Alaska's geography sets it apart from the other Region 10 states. It is the nation's only arctic state and has no shared borders with another state. It is the most distant state from EPA Region 10 headquarters. Alaska needs a strong federal environmental partner that understands Alaska's unique socioeconomic and biophysical landscape. Indecision and delay in addressing Alaska's environmental issues erode public confidence in the capability of all regulatory agencies to protect the environment.

Like EPA, DEC has been working to develop meaningful environmental

indicators and measures for judging the results of specific program investments of public funds. Agreeing on the final indicators and measures continues to be a work in progress. EPA's National Program Guidance, Region 10's Strategic plan and DEC's annual budget Missions and Measures all include draft strategies and end result targets. In preparing this PPA a number of needed revisions to EPA Region 10's January 2004 draft Strategic Plan were identified.

DEC and EPA will:

- Work as partners to build trust, openness, and public confidence.
- Collaborate in allocating resources to address the joint priorities listed in this agreement.
- Communicate on emerging state or national issues and opportunities to learn from the experience or best practices of other states or government agencies.
- Be accountable to results and flexible in the methods to achieve results.
- Collaborate in developing environmental indicators and program performance measures appropriate for Alaska.

DEC will:

- Provide EPA's Senior State Representative monthly meeting opportunities with DEC senior management to review and discuss issues of mutual concern.
- Provide EPA the opportunity to review and comment on revisions to DEC Strategic plans and priorities.
- Commit to have DEC's senior management team attend an annual fall meeting in Alaska with EPA Region 10 senior management to review performance results under this agreement and to initiate planning for the following year.
- Comment on the measures and targets in Region 10's strategic plan and the environmental indicators that should be used to guide EPA's strategic plans, priorities and performance reports for Alaska.

EPA will:

- Attend monthly meetings with DEC senior management to review and discuss issues of mutual concern.
- Provide DEC the opportunity to review and comment on revisions to EPA Strategic plans and priorities.
- Commit to have EPA Region 10's senior management team attend an annual fall meeting in Alaska with DEC senior management to review performance results under this agreement and to initiate planning for the following fiscal year.
- Comment on DEC's annual performance measures for SFY 2006.
- Provide at the beginning of this PPA period and at the mid-year review, a list of all EPA grants that DEC is eligible to apply for, including grant offers from both Headquarters and Region 10. The list should identify the schedule for issuing the grants, the potential amounts available to the state,

and whether it is a formula-driven grant or a competitive process.

- Identify the members and purpose of the Alaska/Arctic Strategy Team listed as a program in Region 10's Strategic Plan sub-objective for restoring community health.
- Provide information to DEC on all EPA grants made to other State and federal agencies, local governments and non governmental organizations in Alaska including work done under the Science to Achieve Results Program grants.

### Water Quality Standards Approval

Water quality standards (WQS) are the foundation of Alaska's water protection and restoration efforts. DEC is required by the Clean Water Act to conduct a comprehensive review of the Alaska's WQS every three years to integrate the most current science and technology. Before changes to the WQS can take effect for Clean Water Act purposes, they must be approved by EPA. When EPA is unable to approve the revisions in a timely manner, confusion arises as to what standards are in place. Delays may also impact other actions such as issuing permits.

DEC and EPA will:

- Work together early in the WQS revision process to identify the information, data and justification that may be needed to support the timely approval of changes to the WQS.
- Invite the early involvement of NOAA-Fisheries and US Fish & Wildlife in the development of a standards revision when an Endangered Species Act (ESA) or Essential Fish Habitat (EFH) consultation may be required.
- Coordinate the review of WQS changes by federal resource agencies under ESA and EFH consultation early in the standards revisions process.

DEC will:

- Inform EPA of WQS issues under consideration for revision. Provide a schedule, including dates where EPA approval is needed and describe DEC's proposed approach and schedule before releasing revisions for public comment.
- Provide EPA an opportunity to review a draft revision and discuss their comments with DEC before the public comment period.

EPA will:

- Treat the approval of WQS as a high priority for achieving the water quality protection objective in Region 10's Strategic Plan.
- Provide "upfront" technical assistance to DEC on proposed revisions to Alaska's water quality standards.
- Work with DEC to develop an acceptable approach to approve DEC's program guidance for establishing site-specific criteria based on natural conditions. Use of the guidance will result in protective decisions without

redundant EPA review on a case-by-case basis.

### Communications with Alaska Tribes

There are 229 federally recognized tribes in Alaska – over 40 percent of the total number of tribes in the U.S. DEC has identified several environmental issues that are specific to tribes in rural Alaska, including: the effects of long-term exposure to the exhaust from the diesel generators that power virtually all of the rural villages; the presence of heavy metals and PCBs in Alaska's fish-based subsistence diet; the impacts to surface or groundwater from poorly located community garbage disposal sites; and sustainable operation and maintenance of Village Safe Water projects.

EPA has a government to government relationship with, and trust responsibility to, tribes. Its 1984 Indian policy stressed two related themes: (1) that the Federal Government will pursue the principle of Indian "self-government" and (2) that it will work directly with tribal Governments on a "government-to-government" basis.

EPA Region 10 will continue to work in partnership and consultation with all federally recognized tribes. EPA recognizes that tribes have the authority to set their own environmental priorities, and will continue to work with tribes in a manner that acknowledges tribal sovereignty and self determination. EPA will work to build tribal environmental capacity and adequate internal mechanisms to help tribes improve environmental protection. EPA Region 10 has established as a priority, Alaskan Native Villages' unique solid waste challenge with the goal to assist tribes to develop integrated waste management programs.

Under Alaska's federally recognized constitution, Alaska Natives and members of Alaska's federally recognized tribes have all the rights and responsibilities of Alaska citizenship. Under state law, DEC serves the interests of all Alaskans as represented by the state's elected officials.

DEC and EPA share a common commitment to communicate the mission, goals, objectives and results of the programs they manage. Sharing information on program activities will help to identify areas of mutual cooperation and improve services to all residents of the State of Alaska.

DEC and EPA will:

- Hold joint work sessions with tribal representatives at meetings such as the annual meeting of the Alaska Native Health Board, or IGAP training sessions, for the purpose of:
  - understanding the respective environmental priorities of all entities;
  - discussing how issues of mutually high priority can use available resources including, personnel, technical assistance and funding to maximize public health and environmental outcomes; and

- develop a process for sharing information with Alaska's tribal governments about environmental priorities and programs. The goal of this communication would be to create new partnerships, while recognizing and strengthening those that already exist. These partnerships may serve as a model for effective cooperation that increases the resources of all parties while resolving environmental problems.

To accomplish the above, each agency will appoint one or two representatives to lead their respective organizations in this endeavor.

DEC will:

- Provide information to Alaska tribes and EPA on Alaska's environmental statutes, regulations, and DEC's responsibilities, programs, services, and priorities.
- DEC will participate in discussions to share program information, and provide technical assistance to tribes seeking to develop environmental programs.

EPA will:

- Provide information to DEC of IGAP grants and other program grants to Alaska tribes including work done under the Indian Lands Open Dumps grant.
- Identify tribal grantees by media interest and proposed projects and develop opportunities for open communication and coordination (teleconferences, face-to-face meetings, workshops, etc.) between DEC technical specialists and tribal environmental specialists.
- Report on the results of the Alaska Native Health Board solid waste demonstration grant.
- Identify potential sources of EPA funding for those tribes interested in collaborating with DEC and EPA regarding the priorities set forth in this PPA (including Rural Diesel Emissions Health Risk Assessment and Fish Tissue Monitoring).



## Rural Diesel Emissions Health Risk Assessment

Unlike exposure to roadway diesel emissions in other regions, exposure to stationary source diesel emissions in Alaska villages and rural communities is a unique air quality issue in Region 10. There is no statewide power grid in Alaska and most communities rely on diesel engines for electrical power. Studies have measured the human health risks from exposure to diesel engine emissions from mobile roadway sources. To achieve DEC and EPA Region 10's common objectives to reduce the risk to public health from toxic air pollutants, the health risks of exposure to diesel emissions in Alaska's rural communities must be evaluated. Alaska rural power plants may represent a significant health risk. However, Alaska cannot further regulate the power plants to require additional control technology and cleaner fuel unless we have a stronger scientific case that is specific to the Alaska rural exposure setting and source type.

During SFY 2004, EPA experts assisted DEC in developing a study scope for the rural diesel health assessment. In SFY 2005, DEC will peer review the study design and implement this study in one or more rural Alaska communities.

DEC and EPA will:

- Communicate with the chosen study communities to convey the purpose and findings of the study with periodic updates to inform the community of study progress.
- As the study is implemented, share scientific knowledge or resolve field study problems.
- Use the study results to guide requirements for stationary source emission controls and/or other appropriate mitigation measures.

DEC will:

- Inform rural Alaska communities and tribes of the research purpose, goals and timeframe, the data gathering techniques, and the implications of the research.
- Finalize the study design and put it through peer review.
- Take the lead in communicating with other rural Alaska communities and tribes about the diesel health assessment work so those communities can be better prepared to make decisions about the use of ultra low sulfur diesel fuel conversion in their community.
- Take the lead in executing the field study.

EPA will:

- Support DEC as it seeks funding for this study from EPA Headquarters or EPA Research Labs as a unique regional issue in the Region's strategic plan for clean diesel. This work is expected to require funding in excess of

discretionary state funds or normal Clean Air Act Section 105 grant funds available to Alaska.

- Identify and assist in contacting additional consultation from EPA experts across the country knowledgeable in this field of risk assessment and field monitoring.
- Assist DEC should the study features or logistics to execute the study require unique regulatory, policy, consultative or interpretive actions by EPA.
- Inform Alaska tribal governments how they can participate and partner with DEC and EPA in a study of health risks from diesel power generator emissions.
- Work with DEC staff to identify and create opportunities to share program information about the Rural Diesel Program with Alaska tribal governments.

### Fish Tissue Monitoring

EPA periodically publishes nationwide health advisories on the safety of individuals consuming fish. During the last two years DEC has analyzed 580 samples of salmon (all five species), halibut, pacific cod, sablefish, black rockfish, lingcod, pollock, and sheefish for heavy metals (methyl mercury, lead, arsenic, chromium, cadmium, selenium, & nickel) at DEC's Seafood and Food Safety laboratory. A subset is also being analyzed at a commercial lab for dioxins and furans, pesticides, and PCB congeners. Samples were collected primarily in marine waters throughout the state although Northern pike has also been collected from lakes in the Koyukuk, Kuskokwim, Yukon, and Susitna River drainages.

DEC has developed a statewide sampling plan that defines: 1) where on-going sampling is needed for sentinel monitoring, 2) areas or species that need further evaluation, and 3) what new species or locations need to be assessed. EPA Region 10 has included fish contaminant surveys in their strategic plan for achieving the objective for fish and shellfish that is safe to eat (sub-objective 2.1.2). Congress has also recently appropriated \$1 million to EPA for the State of Alaska to monitor mercury levels in Alaska fish.

DEC will:

- Advise Alaska communities and tribes of the research purpose, goals and timeframe, the data gathering techniques, and implications of the research.
- Implement the statewide fish tissue monitoring plan for mercury and other contaminants.
- Maintain a web page where EPA, the public and tribes can access data collected on the levels of mercury and other contaminants found in Alaska fish.
- Submit to EPA a comprehensive report of data results when the state has completed its evaluation of study findings.
- Publish fish consumption bulletins with the Alaska Department of Health

and Social Services regarding any risk of consuming Alaska fish.

EPA will:

- Fund DEC's fish monitoring program with the congressional appropriation.
- Include Alaska's fish tissue data when developing National Fish Consumption Advisories, and consult with the Alaska Department of Health and Social Services and DEC before issuing any future fish consumption advisories in Alaska.
- Identify potential sources of EPA funding for those tribes interested in collaborating with DEC and EPA regarding fish tissue monitoring.
- Work with DEC staff to identify and create opportunities to share program information about the fish monitoring program with Alaska tribal governments.

### Restoration and Protection of Water Quality

Both DEC and EPA are committed to restoring and improving the quality of waterbodies. A large share of the resources available to EPA's National Water Program under the Clean Water Act go directly towards supporting efforts to achieve this goal. Over the next several years, EPA will work with DEC to both assure the continued effective implementation of core clean water programs and to accelerate the organization of pollution control efforts on a watershed basis. The new EPA Strategic Plan is available at <http://www.epa.gov/ocfo/>. The national "plan" lays out strategic targets and program activity measures (PAMs) tied to achieving the appropriate sub-objectives.

To protect and improve water quality on a watershed basis, DEC and EPA need to continue to focus their work on integrating key program areas that form the foundation of the water program. Only through a balanced application of these core elements will we be able to meet our overall watershed goals. Core program work includes:

- strengthen the WQS program (see above);
- improve water quality monitoring and assessment;
- develop Total Maximum Daily Loads and related plans;
- implement effective nonpoint source practices on a watershed basis;
- strengthen the NPDES program.

Under EPA's national initiative in the NPDES program, Permitting for Environmental Results (PERS), EPA Region 10 has adopted a plan for prioritizing permit issuance and eliminating permit backlogs.

EPA and DEC will work together to meet our statutory requirements in a timely manner. These include: to develop, review and approve water quality standards; to develop and approve listings of impaired waters; to develop and approve TMDLs, and to issue discharge permits and certify compliance with

water quality standards.

The Alaska Clean Water Actions (ACWA) is Alaska's inter-departmental roadmap for uniting public and private efforts to protect and restore Alaska's water resources. ACWA identifies Alaska waters that are vulnerable to pollution; prioritizes water bodies that are polluted and schedules clean-up actions; establishes priorities for monitoring water quality that are consistent with protection or clean-up management strategies; and describes how Alaska will implement best available technology and management practices to prevent pollution.

Alaska's Non Point Source Pollution Strategy is guided by the ACWA priorities. The Strategy includes development and implementation of TMDLs utilizing the 319 grant tools listed in EPA Region 10's Strategic Plan for this purpose. The Strategy also incorporates non-point source strategies specific to the Coastal Zone Reauthorization Act (6217). EPA approved a portion of the 6217 strategies that were submitted by Alaska to EPA for approval in March 2003. DEC plans to submit a final proposal for addressing EPA's remaining issues before the end of State Fiscal Year 2004. Following full approval of the 6217 program, DEC will develop 5 and 15-year CZARA implementation plans as part of Alaska's Non Point Source Pollution Strategy.

DEC and EPA will:

- Work together to describe how the status and progress of Alaska's water program apply to EPA's watershed protection and restoration goals. The agencies will work together to identify priority watersheds and the applicable programmatic and watershed goals.
- Coordinate TMDL work to ensure the court ordered requirement to develop and establish at least two TMDLs per year is met.

DEC will:

- Make state ACWA priorities continuously available to EPA through the DEC website.
- Utilizing ACWA, determine water quality work priorities and the appropriate balance of DEC efforts (including internal work, grants, contracts, and agreements with other agencies) for monitoring, restoration and protection.
- Fulfill DEC's responsibilities under section 319 of the Clean Water Act to develop and implement a management program including development and implementation of TMDLs.
- Develop a comprehensive water monitoring program strategy as described in the "Elements of a State Water Monitoring and Assessment Program" guidance.
- Provide timely 401 certification on EPA's preliminary final NPDES permits.

EPA will:

- Approve Alaska's 6217 non point source pollution control program or

provide DEC with specific direction on the requirements needed for approval.

- Target water quality program PPG funds for joint priorities, as described in this PPA.
- Inform DEC of water monitoring projects conducted or funded by EPA and ensure that monitoring data collected or funded by EPA will be entered into STORET.
- Implement an effective NPDES program (permit issuance, pretreatment, biosolids, stormwater).
- Continue to provide technical support to DEC staff in the development of TMDLs and review and make decisions on TMDLs in a timely manner.
- Support DEC in its requests to EPA headquarters to revise the CWA Section 106 funding formula to ensure DEC receives a more equitable share.
- Assist DEC in its efforts to ensure that CWA Section 319 funds are equitably provided to DEC in the same manner it is provided to other states (i.e. apply the funding formula consistently across all states).
- Evaluate in conjunction with other Region 10 states and EPA headquarters, the opportunity to issue 104(b) (3) grants to states via a combination of an annual allotment and a competitive process.

### Wetlands Protection

DEC has jurisdiction over all lands and waters in the state, regardless of Clean Water Act jurisdiction. In order for the state to establish appropriate wetlands management tools and to pursue wetlands management primacy, it is critical that Clean Water Act jurisdictional wetlands be clearly distinguished from those that are managed solely under State law. Which wetlands are and are not subject to the Clean Water Act must be absolutely clear to the Corps, EPA, the State and the public. In the spring of 2003, EPA and the Corps issued an Advance Notice of Proposed Rulemaking to begin the process of refining, and making clear, CWA jurisdiction over wetlands and other waters. In November of 2003, the agencies suspended this rule-making. In a January 12, 2004 letter from the Governor to EPA Administrator Mike Leavitt, the State requested EPA to complete this rulemaking effort clarifying when federal jurisdiction may or may not be claimed. With the potential of having more than half the nation's non-jurisdictional wetlands in Alaska, the issue of jurisdiction must be resolved on a statewide or regional basis, rather than the current, case-by-case basis.

Section 404(e) of the CWA authorizes “general permits on a state, regional, or nationwide basis for any category of activities...if the activities are similar in nature, will cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effects on the environment.” State Programmatic General Permits (SPGP) have been authorized for thirteen states.

EPA is providing \$15 million nationwide to “develop or enhance programs for the protection, management, or restoration of wetlands. Half of the nation’s wetlands are located in Alaska. Funding under this program may not be used for the operation or maintenance of existing wetlands programs.” Of the \$15 million, \$750 K is provided to Region 10. None of these funds were awarded to DEC, the State agency with legal jurisdiction and water quality management responsibility for half the nation’s wetlands. Never the less, DEC intends to pursue development of a program for the protection and management of wetlands through an SPGP for Alaska.

EPA will:

- Assist DEC with the development of Alaska’s SPGP.
- Work with the Corps through EPA headquarters to develop guidance to delineate federal Clean Water Act jurisdictional wetlands from non-jurisdictional wetlands in Alaska.

#### Sector Based Regulatory Review Teams

Large scale mining, oil and gas development, and forestry are major activity sectors in Alaska that have significant importance to economic growth and the potential to impact the state’s environmental quality. Storm water is another activity that can have large impacts on Alaska's environment. To date EPA and DEC have approached the regulation of these sector activities on a case-by-case basis using traditional air and water permitting tools which are sometimes not integrated with a more comprehensive environmental review under the National Environmental Policy Act. With respect to Alaska’s oil and gas sector, EPA Region 10’s strategic plan will emphasize an integrated, coordinated approach to projects that reflects all media programs to ensure consistent, transparent Regional policy and decision making.

EPA and DEC will:

- Assign staff to work together on each of the major sector activities referenced above. Mining and oil and gas sector staff will meet at least quarterly to review the status of active or pending projects in each of the major sectors, review federal and state legal and policy requirements applicable to each sector, and identify any issues needing review by the agencies. Timber and storm water staff will meet at least semi-annually.

DEC will:

- Include all draft DEC permits for projects that fall within one of the major sectors in the draft environmental impact statements required under NEPA.

EPA will:

- For projects for which EPA has permitting responsibility and NEPA compliance responsibility, EPA will include a draft permit in the draft EIS if the project proponent has submitted a complete permit application in time for EPA to meet the lead agency's publication schedule.

### Toxics Release Inventory

EPA's annual Toxics Release Inventory (TRI) ranked Alaska fourth in the nation for total toxic pollution releases. Most of the toxic chemical releases and other waste management activities in Alaska that are included in EPA's inventory are trace elements in mined rock.

DEC will:

- Assign staff to work with EPA to draft an Alaska-specific TRI document.

EPA will:

- Assign staff to work with DEC to draft an Alaska specific TRI document that provides additional context on factors to consider for Alaska's TRI releases and other waste management activities. EPA is willing to help Alaska tailor the Public Data Release brochure and the current "Factors to consider when using TRI data" brochure to help Alaska educate its citizens on TRI.

### Drinking Water Rules and Primacy Delegation Approvals

The numerous and increasingly more complex federal drinking water rules are a challenge to the DEC Drinking Water Program. Training staff to obtain a working knowledge of the rules and implementation challenges is becoming a growing demand.

DEC will:

- Assign staff to work with EPA to obtain extension agreements, complete rule adoption packages, and primacy applications.

EPA will:

- Support the use of Extension Agreements for rule adoptions and provide timely guidance in the form of staff and written documentation to DEC on the statutory requirements for rule adoptions, primacy delegation, and program requirements.

## Public Water System Compliance

The increasing number of complex federal rules is challenging the overall ability of public water system owners and operators to achieve, let alone maintain, compliance for all federal drinking water rules.

DEC will:

- Provide compliance assistance consisting of written information and workshops for public water owners and operators, and utility manager on drinking water rule requirements.
- Focus resources on enforcement activities for those public water systems on EPA's Significant Noncompliers (SNC) List and the SNC Exceptions List.

EPA will:

- Provide training workshops using EPA staff or contractors in Alaska, as well as fully utilize satellite videoconferences with downlink sites in Alaska, and webcast training seminars for DEC staff and public water system owners and operators on the implementation requirements of new federal rules.
- In partnership with DEC, complete timely enforcement on public water system referrals with a significant history on noncompliance and non cooperation with DEC.

## Environmental Monitoring and Assessment Program

EPA has been funding Environmental Monitoring and Assessment Program (EMAP) surveys to assess the status and trends of the nation's coastline and freshwater. The information which is collected using standard protocols enables EPA to report on the condition of the nation's waters and enables EPA and the states to understand the range of water quality conditions, and monitor for environmental change. Alaska has more coastline than the lower 48 states combined and about half of the nation's surface water resources. EPA cannot report on the health of the nation's waters without including information from Alaska. To date, EPA has provided funding for only one of Alaska's five coastal areas and is returning to other coastal states to re-sample, prior to completing Alaska's waters.

EPA will:

- Proactively assist DEC in securing funding to complete Alaska's coastal and surface waters assessments.

## Compliance and Enforcement

EPA has primary compliance and enforcement responsibility for non-delegated federal environmental programs and in "Indian Country" in Alaska as defined in 18 U.S.C. Section 1151. DEC has primary compliance and enforcement responsibility for the state's environmental laws and delegated federal environmental programs. It is essential that EPA and DEC coordinate



enforcement and compliance with each other.

EPA and DEC will coordinate enforcement and compliance with each other in a manner consistent with the May 1997 Agreement on Compliance Assurance Principles and March 1988 Compliance Assurance and Evaluation Principles agreed to by the Region 10 States and EPA. EPA and DEC will provide required compliance and enforcement information to each other in an appropriate and timely manner. Current relevant documents include (1) DEC's Enforcement Manual and (2) the Compliance Assurance Agreement between DEC's Air Permits Program and the EPA Office of Air.

EPA Region 10's strategic plan recognizes storm water runoff as a leading cause of Alaska's water quality impairment and has initiated a project to identify potential pollution sources and candidate sites for investigation. Specific information and data will be collected that will allow DEC and EPA to target compliance assistance efforts.

EPA will:

- Meet with DEC in Alaska on the scope and schedule of EPA's wet weather compliance assistance pilot project.

## **V. Performance Reporting and Evaluation**

As a condition of this agreement and subsequent grants awarded to DEC by EPA, DEC will report accomplishments to EPA semi-annually and EPA will report its accomplishments semi-annually to DEC. Reports will be based on information supporting performance measures identified in this agreement outlining accomplishments, existing or potential problems, and suggestions for improvement. The reports will be exchanged by January 30 and July 30 of 2005. EPA will schedule a report review meeting with DEC to discuss the report and make appropriate adjustments.

Reporting requirements are identified in this agreement and the work plans in Sections VII, and VIII. In order to reduce transaction costs, any other reporting needs will be kept to a minimum needed to meet national requests.

EPA and DEC program directors agree to meet in September each year to discuss strategic environmental issues in Alaska. Information from this discussion will be used by each agency when developing subsequent strategies and budgets.

## **VI. Conflict Resolution**

Parties to this agreement realize there may be different expectations and understandings of the terms of this agreement by each party from time-to-time. Resolving those differences early will keep each party focused on the intent of the agreement and avoid difficult, time-consuming situations that disrupt healthy working relationships necessary to achieve mutual success.

EPA and DEC agree to work issues at the lowest level possible, making reasonable efforts to clarify expectations and understandings. If those responsible for implementing activities and achieving expected performance are not able to mutually resolve disagreements that prevent accomplishments, they are authorized to elevate the matter to the next higher level of responsibility. They will notify their supervisor of this action and schedule a discussion among supervisors and affected staffs. This elevation process will continue up to the program director level. If a matter is not resolved before reaching the program director level, program directors will notify the agency head that they are engaged in resolving a conflict. Most issues will be resolved either before reaching this level or at the conclusion of the director elevation. However, significant issues may remain and will be addressed between the agency heads.

Workplan activities that are being reviewed under a dispute resolution process may continue until such time as the senior program managers agree to alter that activity.